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REMARKS

The Examiner has rejected Claims 1-12 under 35 U.S.C. 103(a) as being unpatentable over Perkins et al. (U.S. Patent No. 6,496,477) in view of Coile et al. (U.S. Patent No. 6,298,380). Applicant respectfully disagrees with such rejection, especially in view of the amendments made hereinabove to each of the independent claims. Specifically, applicant has amended each of the independent claims to incorporate the subject matter of dependent Claim 3 et al.

With respect to independent Claim 1, the Examiner has relied on Col. 1, lines 45-62; Col. 9, line 50-Col. 10, line 10; Col. 19, lines 39-67; Col. 21, lines 53-63; and Col. 20, lines 50-60 of Perkins to make a prior art showing of applicant's claimed "client-side network protocol stack defined on an intermediary device available from a plurality of intermediary devices on a primary communications channel and establishing a client-side connection between a requesting client and the intermediary device in accordance with a connection-oriented network protocol" and "server-side network protocol stack establishing a server-side connection between the intermediary device and a requested server on a primary communications channel in accordance with the connection-oriented network protocol."

Applicant respectfully asserts that such excerpts from Perkins only teach an IP stack that is included in software (Col. 9, line 50-51). Simply nowhere in the Perkins reference is there any disclosure that such IP Stack is "defined on an intermediary device," as claimed by applicant. In fact, the only intermediary device disclosed in such excerpts relied on by the Examiner are intermediate nodes to which the IP stack opens communication channels, and not intermediate nodes on which the IP stack resides. Thus, the "client-side network protocol stack," as claimed, is simply not met.

Furthermore, after careful review of such excerpts relied on by the Examiner and the entire Perkins reference, it is clear that nowhere in the Perkins reference is there any teaching of a "server-side protocol stack," as claimed by applicant. Specifically, Perkins

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only teaches one stack (the IP Stack), and not the utilization of two stacks as claimed by applicant.

In addition, none of such references relied on by the Examiner teach two connections, namely “a client-side connection between a requesting client and the intermediary device” and “a server-side connection between the intermediary device and a requested server,” as claimed by applicant. In fact, Perkins merely discloses “open[ing] a connection to an intermediate node,” “firstly...open[ing] a connection to a first intermediate node...[and] secondly...open[ing] a connection to the second intermediate node” (Col. 9, lines 50-67). Thus, Perkins only teaches connections with respect to intermediate nodes and the clients requesting the connection, and not between an intermediary device and a server, in the manner claimed by applicant.

Since Perkins does not teach the utilization of two stacks or two connections in the manner pointed out above, Perkins simply cannot meet applicant’s claimed technique of “determining differences in connection parameters defined for the client-side connection and the server-side connection.” Specifically, applicant’s claimed connection parameters, from which the differences are determined, are defined by the client-side connection and server-side connection which are further each established by associated network protocol stacks.

With respect to independent Claim 7, the Examiner has relied on the same excerpts as those with respect to independent Claim 1 to make a prior art showing of applicant’s claimed technique of “establishing a client-side connection between a requesting client and an intermediary device available from a plurality of intermediary devices on a primary communications channel in accordance with a connection-oriented network protocol; establishing a server-side connection between the intermediary device and a requested server on a primary communications channel in accordance with the connection-oriented network protocol; determining differences in connection parameters defined for the client-side connection and the server-side connection; and communicating the connection parameter differences to at least one other such intermediary device over

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an out-of-band communications channel.” Applicant respectfully asserts that the claim language of Claim 7 is not met by the prior art for similar reasons as argued with respect to independent Claim 1.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant’s disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above. Nevertheless, despite such paramount deficiencies and in the spirit of expediting the prosecution of the present application, applicant has substantially incorporated the subject matter of Claim 3 et al. into each of the independent claims.

With respect to Claim 3 et al., the Examiner has simply stated that such claim language is rejected for the same reasons set forth in Claims 1 and 7. However, applicant respectfully asserts that nowhere in the Perkins or Coile references is there any mention of a “synchronization module deferring communicating the connection parameter differences for transitory connections” (emphasis added), as claimed by applicant.

A notice of allowance or a specific prior art showing of all of applicant’s claim limitations, in combination with the remaining claim elements, is respectfully requested.

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Applicant further notes that the prior art is also deficient with respect to the dependent claims. For example, with respect to dependent Claim 2 et al., the Examiner has stated that applicant's claimed "synchronization module communicating a service request initially received from the requesting client to the at least one other such intermediary device while establishing the client-side connection over the out-of-band communications channel" is rejected for the same reasons set forth in Claims 1 and 7.

However, applicant notes that the only request sent in Perkins is a request for an open connection to an intermediary node (Col. 9, lines 50-67) and not a service request, as claimed by applicant. Furthermore, nowhere in Perkins or Coile is there any disclosure of communicating such service request "while establishing the client-side connection over the out-of-band communications channel" in the context claimed by applicant, especially since Perkins, as argued above, only discloses a request for the connection itself.

With respect to dependent Claim 6 et al., the Examiner has relied on Col. 22, lines 34-50 of Perkins to make a prior art showing of applicant's claimed technique "wherein the intermediary device comprises at least one of a firewall and a boundary controller." Applicant respectfully asserts that such excerpt in Perkins only discloses that "a firewall...is [a] proxy for a protocol for a certain subset of machines." By relying on a general disclosure of a firewall as a proxy, the Examiner has failed to consider the full weight of applicant's claim language. Specifically, applicant claims that the "intermediary device comprises at least one of a firewall and a boundary controller." Simply nowhere in Perkins is there any teaching that the intermediate nodes (Col. 9, lines 50-67) are firewalls or boundary controllers.

Since at least the third element of the *prima facie* case of obviousness has not been met, a notice of allowance or a specific prior art showing of all of the claim limitations, in the context of the remaining elements, is respectfully requested.

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Still yet, applicant brings to the Examiner's attention the subject matter of new Claims 21-25 below, which are added for full consideration:

"wherein the connection parameter differences include a difference between TCP session sequence numbers during a TCP communications session" (see Claim 21);

"wherein the transitory connections include short duration connections used for simple data exchanges" (see Claim 22);

"wherein the synchronization module allows packets to flow directly through to the requesting client and the requested server" (see Claim 23);

"wherein the synchronization module is incorporated in a firewall network protocol stack running on a firewall" (see Claim 24); and

"wherein the connection parameter differences are communicated after sending an acknowledgement response from the requested server to the requesting client and before sending an acknowledgement response from the requesting client to the requested server" (see Claim 25).

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The

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Commissioner is authorized to charge any additional fees or credit any overpayment to
Deposit Account No. 50-1351 (Order No. NAI1P401/00.081.01).

Respectfully submitted,
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